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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Preemption of State and Local Zoning and)
Land Use Restrictions on the Siting,)
Placement and Construction of Broadcast)
Station Transmission Facilities)

MM Docket No. 97-182

To: The Commission

COMMENTS OF UNIVISION COMMUNICATIONS INC.

Univision Communications Inc. ("UCI"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits its comments in response to the Commission's above-captioned Notice of Proposed Rulemaking, FCC 97-296 (released August 19, 1997) ("NPRM"). As discussed below, the Commission should adopt a clear rule, such as that proposed in the Petition for Further Notice of Proposed Rule Making submitted jointly by the National Association of Broadcasters and the Association for Maximum Service Television, MM Docket No. 87-268 ("NAB Petition"), which will ensure that the implementation of digital television ("DTV") will not be unreasonably delayed by local and state regulations.

UCI owns and operates the Univision Network, which is the primary source of news and entertainment for this nation's large and rapidly growing Hispanic population.^{1/} To serve this

^{1/} The U.S. Hispanic population presently exceeds 26 million, comprising over 10% of the overall population. See STATISTICAL ABSTRACT OF THE UNITED STATES 1996 at 19 (116th ed. 1996). By 2050, the U.S. Hispanic population is expected to comprise 24.5% of the overall population. See, e.g., The Tampa Tribune, Hispanic Population on the Rise, March 15, 1996 (citing Population Projections of the United States by Age, Sex, Race, and Hispanic Origin: 1995-2050, U.S. Bureau of the Census (1996)).

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substantial audience, UCI relies upon forty-six television stations nationwide. Twenty of these television stations are owned and operated by UCI subsidiaries.

As the Commission has previously recognized, local and state zoning and land use restrictions pose a genuine threat to broadcasters seeking to swiftly implement the nationwide transition to DTV. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, FCC 97-116 (April 22, 1997), 62 F.R. 26966 (May 16, 1997) at ¶ 77. Each year, the rapidly expanding communications industry has encountered increasing difficulty in obtaining zoning and land use authorizations as local and state authorities, entrusted to safeguard their citizenry, have become more reluctant to approve additional tower construction requests. In particular, the explosive growth of the cellular and personal communications systems industries has made local and state authorities wary of any tower construction requests. This situation will only get worse in the coming years as broadcasters seeking to implement the DTV transition add their tower construction requests to the growing lists of requests facing local and state zoning and land use authorities nationwide. For a network such as Univision, this worsening scenario has already resulted in a complex patchwork of restrictive zoning and land use regulations that delays the introduction of expanded service to the public and consumes significant amounts of time and money that could otherwise be used to enhance Univision's service to its audience.

Presently, the Commission, broadcasters, and state and local zoning and land use authorities all remain uncertain as to the scope of federal preemption in this field. This uncertainty has, and will continue to, result in countless legal battles that waste the resources of both broadcasters and local and state authorities alike. If this uncertainty is not dealt with by the Commission, television broadcasters seeking to implement DTV will soon find themselves in the

front lines of these zoning and land use battles and the Commission's DTV implementation timetable will be one of the first casualties.

A clear rule that sets forth the nature of acceptable local and state tower regulations, as well as timetables regarding the time by which local and state authorities need to act upon tower construction requests, will greatly facilitate the DTV transition by removing many uncertainties regarding the tower construction process nationwide. For every uncertainty removed by this proceeding, the Commission will save both broadcasters and state and local zoning authorities substantial time and money that would be lost in repetitive legal hearings across the country.


To this end, Univision hereby endorses the rule proposed in the NAB Petition. While respecting the role of local and state authorities to safeguard their citizens, the rule in the NAB Petition proposes reasonable and limited federal preemptions which will significantly assist broadcasters attempting to implement digital television.

CONCLUSION

For the reasons set forth above, the Commission should adopt a rule such as that proposed in the NAB Petition to preempt local and state zoning and land use restrictions. This preemption is necessary if broadcasters are to meet the Commission's DTV implementation timetable.

Respectfully submitted,

UNIVISION COMMUNICATIONS INC.

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